

Remarks

Claims 1-19 are pending in the application and are rejected.

Claim objections

Withdrawal of the objections to claims 1 and 2 is respectfully requested in view of the amendments thereto set forth above. As to the objection to claim 10, the Applicant respectfully submits that the phrase “one of a temperature” is proper. The claim element “temperature” has no antecedent. Withdrawal of the objection to claim 10 is therefore respectfully requested.

Claim rejections

Section 112

Claims 2, 12, 14 and 15 were rejected under 35 USC 112, 2nd paragraph.

Withdrawal of the rejection of claim 2 is respectfully requested in view of the amendment thereto set forth above.

As to claim 12, claim 1 recites that the device control portion controls the operation device. Claim 12 is not inconsistent with this. A “moving object detecting portion” is a detecting portion in a moving object.

As to claim 14, it is noted that under 35 USC 112, 2nd paragraph it is the prerogative of the applicant to define what he “regards as his invention.” Here, the Applicant does not regard where the fuel gas supply is located as defining the invention. Similarly, regarding claim 15, the Applicant does not regard where the cooling system is located as defining the invention.

In view of the above, withdrawal of the rejection of claims 12, 14 and 15 under 35 USC 112, 2nd paragraph is respectfully requested.

Section 102

Claim 1-7, 11 and 16-19 were rejected under 35 USC 102(b) as being anticipated by Fuglevand et al. (US 6,096,449) (“Fuglevand”). The Applicant respectfully traverses. Fuglevand cannot support the asserted rejection for at least the reason that Fuglevand

does not disclose "the predetermined operation pattern to apply at least one predetermined operating condition to change an operational state of the fuel cell ...," and detecting a change in an operational state of the fuel cell corresponding to the predetermined operation pattern as recited in independent claims 1 and 16.

The Examiner refers to col. 2, lines 41-45, col. 3, lines 19-26, and col. 8, lines 16-29 of Fuglevand. However, these do not disclose the features of the present claims. In fact, Fuglevand does not relate to applying predetermined operating patterns to change an operational state, and diagnosing based on the change, at all. Instead, Fuglevand only discloses shunting current based on first and second operational conditions indicating reduced performance, that arise in a fuel cell that is otherwise being operated as normal. There is no purposeful application of operating conditions to change an operational state of the fuel cell, with a diagnosis based on the change.

Accordingly, claims 1 and 16 are allowable over Fuglevand, as are claims dependent thereon. Withdrawal of the asserted rejection is therefore respectfully requested.

Section 103

Claims 8-10 were rejected under 35 USC 103(a) as being unpatentable over Fuglevand in view of Bai et al. (US 6,620,538). Claims 12-14 were rejected under 35 USC 103(a) as being unpatentable over Fuglevand in view of Iwasaki (US 6,447,939). Claim 15 was rejected under 35 USC 103(a) as being unpatentable over Fuglevand in view of Iwasaki, and further in view of Yoshizawa et al. (US 2003/0003334). The Applicant respectfully traverses. The noted claims depend on claim 1 and are therefore allowable over Fuglevand for at least that reason. Bai et al., Iwasaki and Yoshizawa et al. do not cure the deficiencies in Fuglevand with respect to claim 1, and therefore the noted claims are further allowable over the cited combinations. Withdrawal of the asserted rejections is therefore respectfully requested.

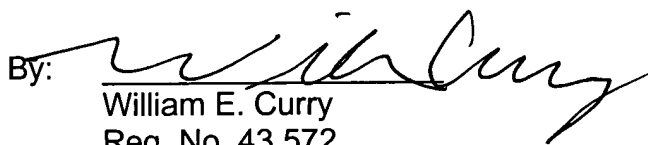
Conclusion

In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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